

Fiscal Services Division

Legislative Services Agency

Fiscal Note

HF 2212 as amended by S-5013 – Smoking Ban in Public Places (LSB 5743 HV.1)
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Fiscal Note Version – As Amended by S-5013
Requested by Senator Staci Appel and Senator William A. Dotzler, Jr.

Description

House File 2212, as amended by S-5013, creates a new Code of Iowa chapter called the “Smoke-Free Air Act.” The Act is to be enforced by the Department of Public Health (DPH) or the Department’s designee.

The Bill, as amended, prohibits smoking in public places, including gambling structures, excursion gambling boats, and racetrack enclosures. In addition, the Bill, as amended, prohibits smoking in all enclosed locations within places of employment, and specified outdoor areas, including school grounds. The Bill provides certain exceptions to the smoke-free requirement, including the Iowa Veterans Home, and farm tractors, farm trucks, and implements of husbandry.

The Bill, as amended, directs the Department of Public Health to provide a compliance education program for the public, employers, and business owners. Complaints may be filed with the Department or the Department’s designee. Judicial magistrates are to hear and determine violations.

The civil penalties provided under the Bill, as amended, are as follows:

- \$50 for individuals smoking in a prohibited area.
- \$100 for the first violation by an owner, manager, or operator of a place of employment that fails to comply. The second violation within a year will result in a penalty up to \$200. The third and subsequent penalties within a year will result in a penalty up to \$500.
- \$2,000 to \$10,000 for wrongful discharge or discrimination by an employer against an employee for filing a complaint, legal action, etc.

Background

According to the National Conference on State Legislatures (NCSL), 22 states, the District of Columbia, and Puerto Rico currently require all workplaces, including restaurants and bars, to be smoke-free. Six additional states require all workplaces, including restaurants, to be smoke-free, but exempt bars. Another three states exempt bars and restaurants that do not admit people under age 18 or 21. Approximately half of these laws were enacted in 2006 or 2007.

Assumptions

Department of Public Health/Local Governments – HF 2212, as amended, does not specify how the Smoke-free Air Act would be enforced, except that it would be enforced by the DPH or the Department’s designee. It is assumed that the designee may be a city or county official. The Department’s estimated costs for implementation and education are included in the fiscal impact. Additional detail regarding the Department’s education and implementation plans is available on request from the LSA.

Reduced Cigarette Sales – Based on information obtained from the Illinois Department of Revenue, a 4.0% decrease (\$31.4 million in retail expense) in cigarette sales is assumed. The direct impact of the decreased sales is a projected reduction in annual General Fund tax revenue of \$10.5 million.

Iowa receives approximately \$6.1 billion in net General Fund receipts from total personal income of \$108.0 billion (5.7%). If the dollars not expended on cigarettes are considered the same as increased income and expended as any other income dollar by Iowans, the \$31.4 million in annual cigarette expenditure reductions will generate \$1.8 million in General Fund receipts. Combining the cigarette and sales tax reductions of \$10.5 million with the \$1.8 million General Fund increase yields a projected net annual General Fund revenue reduction of \$8.7 million in FY 2009.

Reduced Gambling Losses – Based on data from other states, the Iowa Racing and Gaming Commission estimates that adjusted gross revenue at Iowa gambling facilities will decrease by 10.0% if smoking is

prohibited. The LSA calculates a 10.0% reduction in adjusted gross revenue will decrease gambling losses by \$140.5 million and State gambling tax revenue by \$31.7 million.

Assumptions:

1. Reduced gambling losses at facilities subject to the smoking ban of \$140.5 million.
2. Twenty-five percent (\$35.1 million) of these dollars will be lost at other gambling facilities where smoking is not banned (such as Native American casinos).
3. Seventy-five percent (\$105.4 million) of these dollars will be expended as any other dollar of personal income by lowans.
4. The average tax rate per dollar of personal income in Iowa is 5.7%.
5. Switching \$105.4 million from gambling losses to ordinary expenditures will increase annual State General Fund revenue by \$6.0 million.

Fiscal Impact

Reduced Cigarette Sales – Estimated State General Fund and local government reductions from the cigarette sales impact include:

Estimated Cigarette Sales Revenue Impact
Dollars in Millions

Fiscal Year	Cigarette Tax	State Sales Tax	Increased Income*	State Net General Fund Impact	Local Gov LOST-SILO** Taxes
2009	\$ -8.94	\$ -1.57	\$ 1.80	\$ -8.71	\$ -0.40
2010	-8.85	-1.58	1.80	-8.62	-0.42
2011	-8.75	-1.59	1.80	-8.54	-0.45
2012	-8.66	-1.59	1.80	-8.45	-0.48

* The estimated dollar amount generated if the dollars not expended on cigarettes are considered the same as increased income and expended as any other income.

** Local Option Sales Tax (LOST) and School Infrastructure Sales Tax (SILO)

Reduced Gambling Losses – Estimated State revenue changes from projected reductions in gambling losses include:

Impact of Reduced Gambling Losses	
Fund/Account	Dollars in Millions
Rebuild Iowa Infrastructure Fund	\$-28.9
Cities and Counties	-1.4
County Endowment Fund	-1.1
Community Cultural Grants	-0.1
Tourism Marketing Fund	-0.1
Endow Iowa Tax Credits	-0.1
Gambling Funds Subtotal	-31.7
State General Fund	6.0
Net Impact on State Funds	\$-25.7

Expenditures – The Department of Public Health estimates increased costs to implement and administer this legislation at \$106,900 for FY 2009 and \$51,100 for FY 2010. These costs include administrative costs, educational materials, toll-free number, web site, and postage. The cost for FY 2009 will be determined by how the Department markets the toll-free number.

If the Department initiates a statewide media campaign to promote the law and its provisions, and follows similar procedures to current campaigns, the minimum cost for a 9-month radio and billboard campaign would be \$800,000; however, the Department's current budget includes \$500,000 that could be utilized for campaign expenses. Adding print and television would increase the costs.

Department of Public Health

	Est. FY 2009	Est. FY 2010
Staff & Administrative Costs	\$ 51,400	\$ 36,700
Toll-Free Number	3,200	1,900
Educational Materials	35,000	8,800
Postage Costs	5,300	1,700
Signage (Downloadable Only)	0	0
Web Site	12,000	2,000
Total	<u>\$ 106,900</u>	<u>\$ 51,100</u>

Net Fiscal Impact of Bill as Amended – The net reduction to the State General Fund, combining revenue increases, decreases, and increased expenditures, is \$2.8 million for FY 2009 and \$2.7 million for FY 2010 and future fiscal years.

The reduction in other State funds receiving gambling revenue is projected to be \$31.7 million per year beginning in FY 2009. The reduction in local LOST and SILO revenue is projected to be \$0.4 million per year beginning in FY 2009. There will be additional undetermined revenue reductions for local governments receiving revenue from gambling facilities impacted by the smoking ban.

Additional Potential Impacts

- Department of Corrections. The Department indicated that the Prison Canteen Fund may experience an estimated decrease of up to \$123,000 to reflect a reduction in sales, if all tobacco products were prohibited.
- Judicial Branch/Courts. The Judicial Branch indicated that there could be an impact to the courts for processing complaints, but the number of cases cannot be determined. Compliance is expected to be high and few citations are expected so any impact should not be significant.
- Local Governments. The total estimated costs for on-site inspections are unknown. Also unknown is whether the inspections will be conducted by city or county officials. Costs for inspections are expected to be offset by inspection fees and/or penalties collected.
- Potential Savings. If the smoking ban results in less tobacco-related illness over time, there may be a reduction in State health care expenditures paid under Medicaid and consumer health care expenditures in general. This estimated savings is unknown.

Sources

Department of Corrections
 Judicial Branch
 Department of Public Health
 National Conference of State Legislatures
 Department of Revenue
 Racing and Gaming Commission
 Department of Inspections and Appeals

/s/ Holly M. Lyons

February 27, 2008

The fiscal note and correctional impact statement for this bill was prepared pursuant to Joint Rule 17 and pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Fiscal Services Division, Legislative Services Agency to members of the Legislature upon request.
